

BUSINESS EGGS

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You are not pleased to have been seated next to P. Smith. He/she is a former college classmate who lost to you in the election for Student Body President despite his/her vicious smear campaign against you. Just seeing Smith has rekindled your sense of resentment and anger toward him/her. Now you discover that P. Smith is also a current competitor, on his/her way to Ontarawan to purchase the eggs of the rare spotted ostrich, just as you are. You wonder what he/she is up to now.

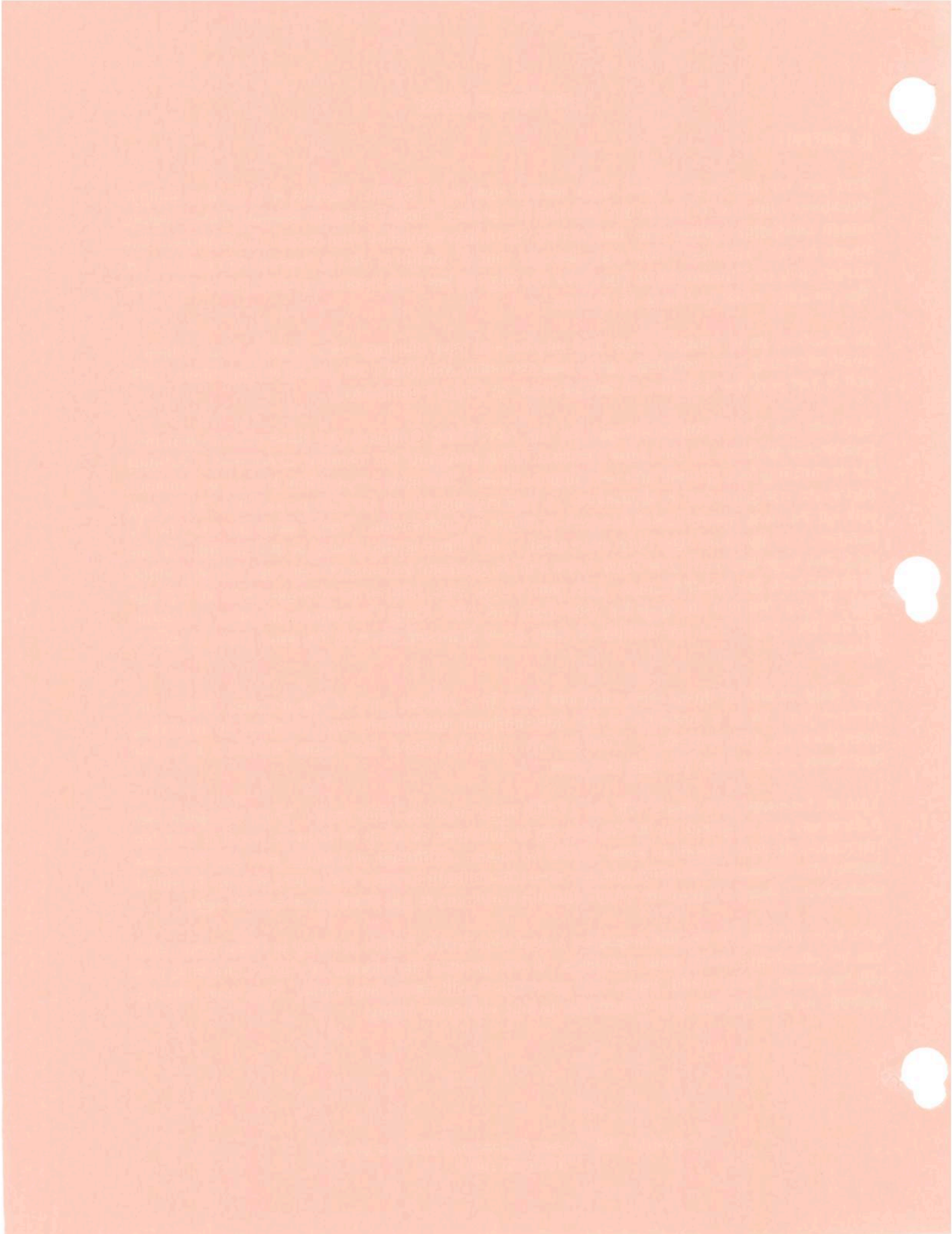
In addition, your company has had unpleasant past dealings with Smith's firm, which is currently suing your company (quite unreasonably, you think) for patent infringement. This suit is just another instance of harrassment by Smith's company.

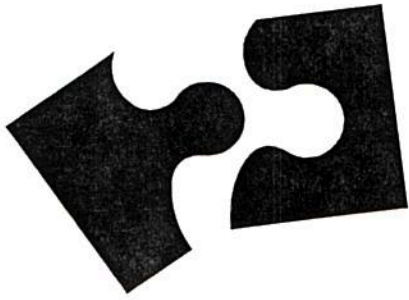
You are the Chief Pharmacologist for the ABC Drug Company, an international firm that specializes in drugs to cure rare diseases. This company has recently developed a formula for promoting hair growth and retarding baldness. This new preparation is in great demand, and sales are expected to skyrocket. A primary ingredient for this preparation is the egg yolk of the rare spotted ostrich which is found in Ontarawan. These birds are very few in number and lay their eggs only once each year. Their laying period is this month. In the past, the eggs laid each year have been sold to gourmet restaurants who use the egg whites as thickeners for special soups. Last year's eggs were sold at an average price of \$15 per egg. If you can get the eggs for your firm, the ABC Drug Company will make a sizeable profit this year. You are certain to reap great financial rewards for your hand in ABC's success.

The only owner of these rare ostriches lives in a remote part of Ontarawan. There are rumors that he is a member of the international underworld and involved in narcotics, assassination, and terrorism. You do not think he knows that there will be a new and increased demand for his eggs this year.

You understand that there will be 15,000 eggs produced this year. Your company has authorized you to spend up to \$20 per egg to purchase as many of them as possible and has instructed you to obtain at least 10,000 of them. Although you think you can probably outbid the restaurant industry, you are concerned about a rumor that there may be potential competition from a company which manufactures nerve gas from these ostrich eggs.

You have decided to try and negotiate a deal with Smith, before arriving in Ontarawan, that will be advantageous to your company. If you protect the interest of ABC Company, you will be given a substantial bonus and your salary will more than triple. You have already picked out a yacht that you would like to buy with your bonus.





NEGOTIATION

NEGOTIATION

Negotiation occurs between spouses, parents and children, managers and staff, employers and employees, professionals and clients, within and between organizations, and between agencies and the public. Negotiation is a problem-solving process in which two or more people voluntarily discuss their differences and attempt to reach a joint decision on their common concerns. Negotiation requires participants to identify issues about which they differ, educate each other about their needs and interests, generate possible settlement options, and bargain over the terms of the final agreement. Successful negotiations generally result in some kind of exchange or promise being made by the negotiators to each other. The exchange may be tangible, such as money, a commitment of time, or a particular behavior; or intangible, such as an agreement to change an attitude or expectation, or to make an apology.

Negotiation is the principle way that people redefine an old relationship that is not working to their satisfaction or establish a new relationship where none existed before. Because negotiation is such a common problem-solving process, it is in everyone's interest to become familiar with negotiating dynamics and skills. This chapter is designed to introduce you to some basic concepts of negotiation and to present procedures and strategies that generally produce more efficient and productive problem solving.

Conditions for Negotiation

A variety of conditions can affect the success or failure of negotiations. The following conditions make success in negotiations more likely.

Negotiation

Identifiable parties who are willing to participate. The people or groups who have a stake in the negotiations must be identifiable and willing to sit down at the bargaining table if productive negotiations are to occur. If a critical party is either absent or unwilling to commit to good faith bargaining, the potential for agreement will decline.

Interdependence. For productive negotiations to occur, the participants must be dependent upon each other to have their needs met or interests satisfied. The participants need either each other's goodwill, or restraint of negative action, for their interests to be satisfied. If one party can get his/her needs met without the cooperation of the other, there will be little impetus to negotiate.

Readiness to negotiate. People must be ready to negotiate for dialogue to begin. When participants are not psychologically prepared to talk with the other party or parties, when adequate information is not available, or when a negotiation strategy has not been prepared, people may be reluctant to begin the process.

Means of influence or leverage. For people to reach an agreement over issues about which they disagree, they must have some means to influence the attitudes and/or behavior of another negotiator. Often influence is seen as the power to threaten or inflict pain or undesirable costs, but this is only one way to encourage another to change. Asking thought provoking questions, providing needed information, seeking the advice of experts, appealing to influential associates of a party, Negotiation is one of the most common approaches used to make decisions and manage disputes. exercising legitimate authority, or providing rewards are all means of exerting influence in negotiations.

Agreement on the issues and some interests. People must be able to agree upon some common issues and interests for progress to be made in negotiations. Generally, participants will have some issues and interests in common and others that are of concern to only one party. The number and importance of the common issues and interests influence whether negotiations begin and terminate in agreement. Parties must have enough issues and interests in common to commit themselves to a common decision-making process.

Will to settle. For negotiations to succeed, participants have to want to settle. If continuing a conflict is more important than settlement, or if maintaining the conflict is useful to one or more parties, then negotiations are doomed to failure. Often parties want to keep conflicts going to preserve a relationship (a negative one is better than no relationship at all), to mobilize public opinion or support in their favor, or to maintain a conflict relationship which gives meaning to their lives. These factors promote continued division and work against settlement. The negative consequences of not settling must be more significant and greater than those of settling for an agreement to be reached.

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Unpredictability of outcome. People negotiate because they need something from another person. They also negotiate because other means of resolution are unpredictable as to outcome. For example, if by going to court, a person has a 50/50 chance of winning, he or she may decide to negotiate rather than take the risk of losing. Negotiation is more predictable than court because if negotiation is successful, the party will at least win something. Chances for a decisive and one sided victory need to be unpredictable or minimal for parties to enter into negotiations.

A sense of urgency and deadline. Negotiations generally occur when there is some pressure or urgency to reach a decision. Urgency may be imposed by either external or internal time constraints or potential negative or positive consequences, if settlement is or is not reached. External constraints include: court dates, imminent executive or administrative decisions, or predictable changes in the environment. Internal constraints may be artificial deadlines selected by a negotiator to enhance the motivation of another to settle. For negotiations to be successful, the participants must jointly feel a sense of urgency and be aware that they are vulnerable to adverse action or loss of benefits if a timely decision is not reached. If procrastination is advantageous to one side, negotiations are less likely to occur, and if they do, there is less impetus to settle.

No major psychological barriers to settlement. Strong emotions, feelings about another party, and psychological readiness to negotiate can sharply affect a person's ability to bargain with another party. Psychological barriers to settlement must be lowered if successful negotiations are to occur.

Issues must be negotiable. For successful negotiation to occur, negotiators must believe that there are acceptable settlement options open to them as a result of participation in the process. If negotiations appear to have only win/lose settlement possibilities so that a party's needs will not be met as a result of participation, he/she will be reluctant and, in fact, will have little reason to enter into dialogue.

The people must have the authority to decide. For a successful outcome, participants must have the authority to actually make a decision. If they do not have a legitimate and recognized right to decide, or if a clear ratification process has not been established, negotiations will be limited to information exchange.

A willingness to compromise. Not all negotiations require compromise. On occasion, an agreement can be reached which meets all the participants' needs and does not require a sacrifice on any party's part. In other disputes, compromise, or willingness to have less than 100 percent of needs or interests satisfied, may be necessary for the parties to reach a satisfactory conclusion. Where the physical division of assets, strong values, or principles preclude compromise, negotiations are not possible.

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The agreement must be reasonable and implementable. Some settlements look good regarding substance, but may be impossible to implement. Participants in negotiations must be able to establish a realistic and workable plan to carry out their agreement if the final settlement is to be acceptable and hold over time.

External factors favorable to settlement. Often factors external to negotiations inhibit or encourage participants regarding settlement. Views of associates or friends, the political climate of an institution, public opinion, or economic conditions may foster agreement or continued turmoil. Some external conditions can be managed by negotiators while others cannot. Favorable external conditions for settlement should be developed whenever possible.

Resources to negotiate. Participants in negotiations must have the interpersonal skills necessary for bargaining and, where appropriate, the money and time to engage fully in procedure dialogue. Inadequate or unequal resources may block the initiation of negotiations or hinder settlement.

TYPES OF NEGOTIATION¹

Any negotiation between more than two people may involve multiple bargaining relationships. In this section we will look at the following types of negotiations:

- Horizontal or in-team negotiations
- Vertical negotiations with superiors or constituents
- Vested interest negotiations
- Conciliatory negotiations
- Sidebar negotiations
- Subcommittee negotiations
- Bi-lateral or multi-lateral negotiations
- External negotiations

Horizontal or In-Team Negotiations

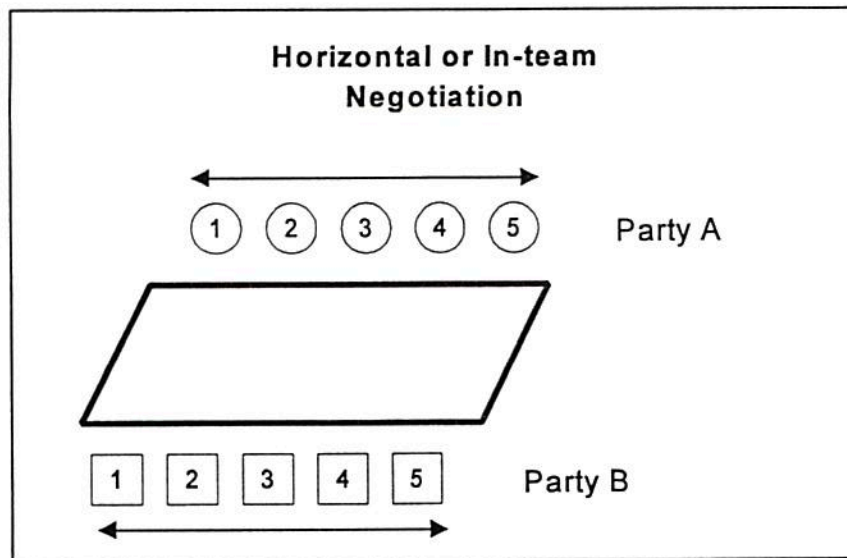
These negotiations occur between members of a negotiation team. They are necessary to coordinate individual actions and mold the people involved into a smoothly functioning team. Team members may differ as to authority, substantive expertise, negotiation, or communication skills. In-team negotiation enables diverse members to:

- Bargain on items of personal concern
- Arrive at a group definition of the problems to be handled in joint session
- Develop settlement options that have broad team acceptance
- Develop individual and team strategies
- Assign roles and responsibilities

¹ The initial conceptualization of this section was developed by William F. Lincoln of the National Center for Collaborative Planning and Community Services.

Negotiation

In-team decision making is usually handled by reaching a consensus, as it is imperative for team members to be able to support and present verbally a common viewpoint on issues in joint sessions. Command decisions and voting are usually not efficient or appropriate for in-team negotiations since they may produce undesirable divisions on the team.



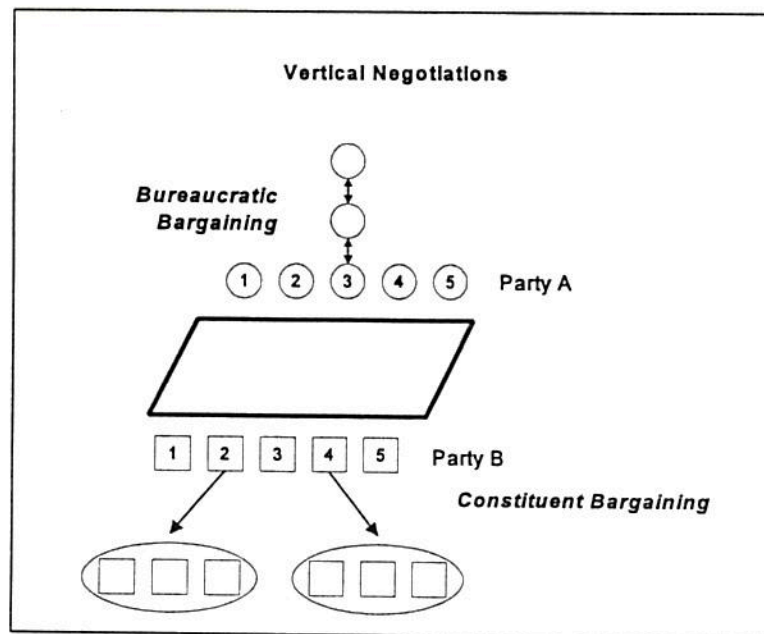
Vertical Negotiations

Frequently, the parties at the table do not have absolute authority to make a final decision on an issue in question. The parties may have to check with others to gain final approval. Vertical negotiations take two forms: 1) bureaucratic bargaining and 2) constituency bargaining.

Bureaucratic bargaining occurs when a team must gain approval from parties higher in an organization for an agreement to be finalized. Most bureaucratic organizations see negotiators as representatives of the organization, but not final decision-makers. Negotiators at the table often have to develop ratification procedures internal to the organization.

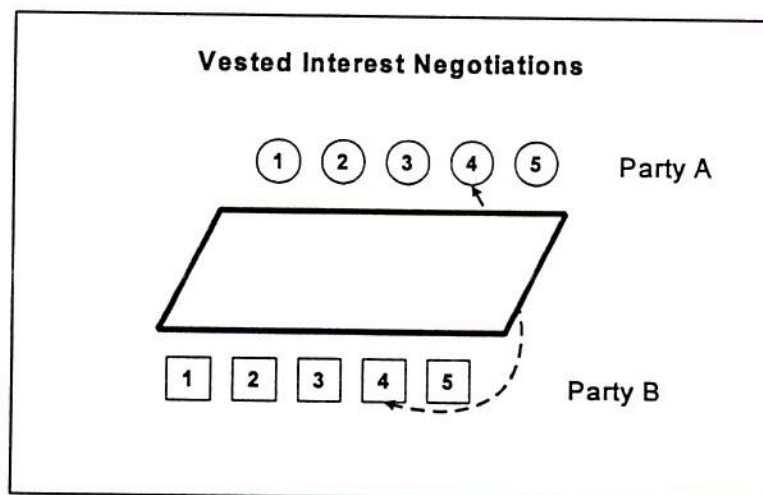
Constituent bargaining occurs when the parties at the table represent a larger group. For final approval of a settlement, the broader group must approve the agreement developed by the team at the table. The approval process most commonly used to determine constituent satisfaction is voting. Labor/management contracts or settlements developed by public interest groups in public policy dialogues are classic examples of settlements that must have constituent approval before the agreement can be formalized.

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Vested Interest Negotiations

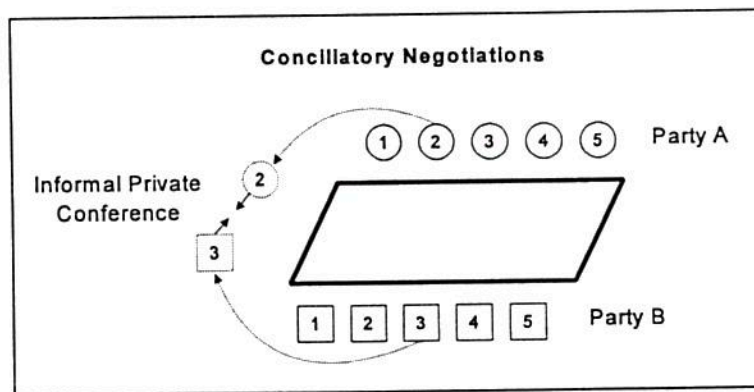
On occasion, an individual may decide to negotiate with members of another team "under the table" or without his or her own team's knowledge. The individual "sells out" his or her team, organization, or wider public for exclusively personal benefits. While this form of negotiation is not recommended, it is important for team members to be aware of the possibility of its occurrence and the costs that it may impose on the team or organization.



Negotiation

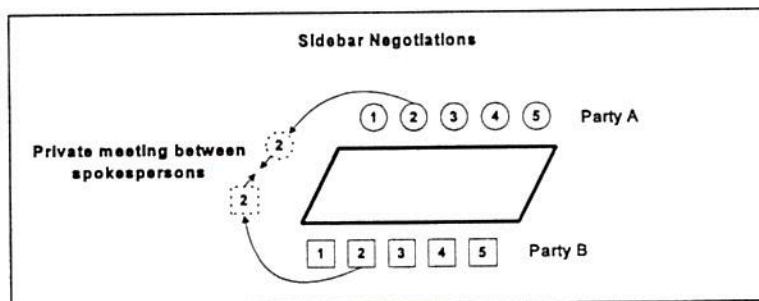
Conciliatory Negotiations

Conciliatory negotiations occur when one or more parties, with the knowledge and approval of team members, hold informal private conferences with a member or members of another team in an effort to narrow the distance between the parties on substantive issues about which they disagree. Conciliatory negotiations usually occur between people who are quasi-mediators, since they can understand and interpret the interests of an opposing party to the members of the conciliatory bargainer's team. Conciliatory negotiators also often have cross-cutting interests or values which allow them to develop some ties with the opposing party. This quality enables the conciliatory negotiator to see conflicting issues as "gray" rather than black and white.



Spokesperson Negotiations

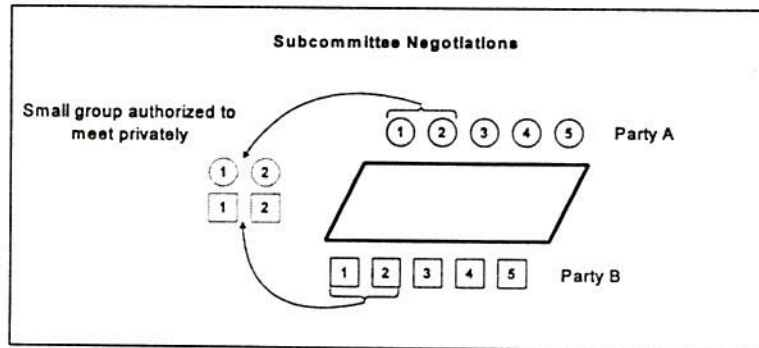
Spokesperson or "sidebar" negotiations occur when the spokes people for each team meet in private to determine if they can reach an agreement. This approach often promotes settlement because the complications of having multiple people at the negotiation table are minimized and the pressure for posturing by spokes people, or the need to perform in front of an audience (their team), are lessened.



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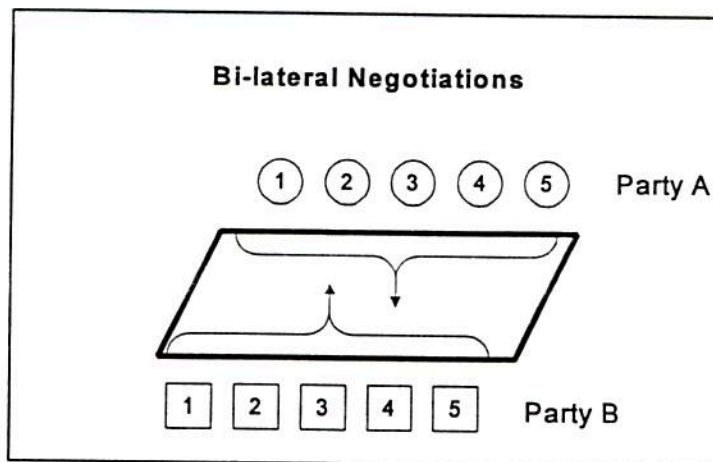
Subcommittee Negotiations

Frequently negotiations between large teams are cumbersome. A large group is not an efficient structure for refining or narrowing ideas, breaking deadlocks, or drafting final settlement language. A subcommittee, composed of members of opposing parties, may be authorized by teams to meet privately to develop recommendations that can be brought back to the whole group for discussion and approval.

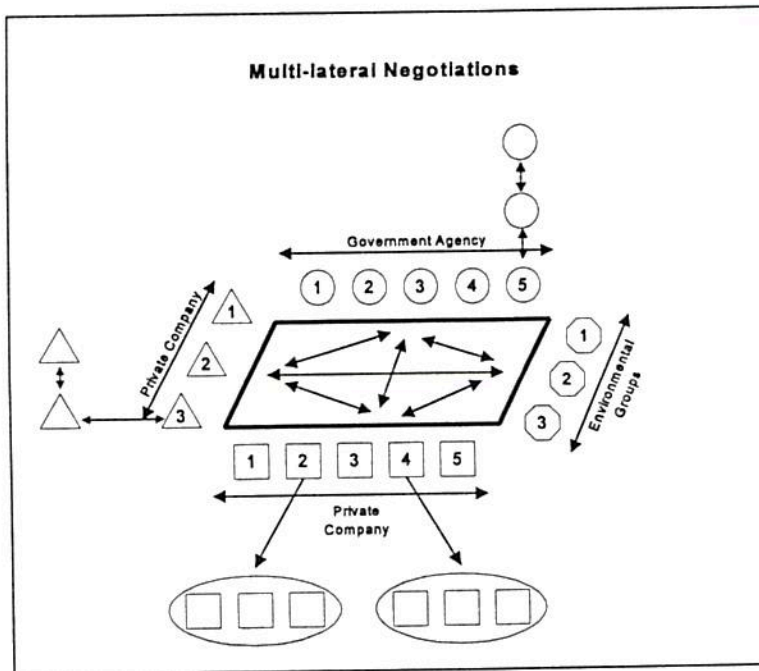


Bi-lateral or Multi-lateral Negotiations

Bi-lateral or multi-lateral negotiations are the formal discussions between teams or spokes people across the table. These negotiations, often called joint sessions, may or may not be where the decisions are made. Bi-lateral or multi-lateral negotiations are often more formal sessions where the parties educate each other about the issues, put forth proposals, and ratify final decisions.



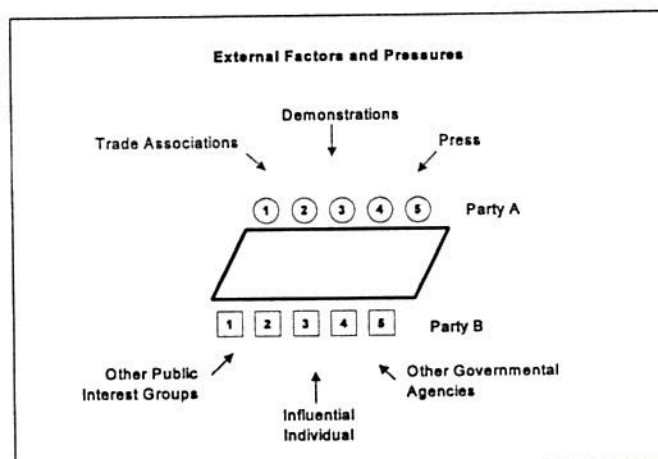
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External Negotiations

External negotiations occur between the parties at the table and parties who are not present in the direct bargaining, yet are concerned about the outcome of the discussions. The press, trade associations, interested governmental agencies, neighbors, and extended families have all engaged in extended negotiations with parties at the table in such issues as the release of information, limits on the duration of the bargaining, and limits or expansion of the scope of the issues being discussed at the table.

External pressures and corresponding negotiations are often critical structural variables which influence the success or failure of negotiations.



POSITIONAL BARGAINING

What Is Positional Bargaining?

Positional bargaining is a negotiation strategy in which a series of positions—alternative solutions that meet particular interests or needs—are selected by a negotiator, ordered sequentially according to preferred outcomes, and presented to another party in an effort to reach agreement. The first, or opening position, represents that maximum gain hoped for or expected in the negotiations. Each subsequent position demands less of an opponent and results in fewer benefits for the person advocating it. Agreement is reached when the negotiators' positions converge and they reach an acceptable settlement range.

When Is Positional Bargaining Often Used?

- When the resource being negotiated is limited (time, money, psychological benefits, etc.).
- When a party wants to maximize his/her share in a fixed-sum pay-off.
- When the interests of the parties are not interdependent, are contradictory, or are mutually exclusive.
- When current or future relationships have a lower priority than immediate substantive gains.

Attitudes Of Positional Bargainers

- Resource is limited.
- Other negotiator is an opponent—be hard on him/her.
- Win for me means a loss for you.
- Goal is to win as much as you can.
- Concessions are a sign of weakness.
- There is a right solution—mine.
- Be on the offensive at all times.

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How To Do Positional Bargaining

Set your target point—solution that would meet all your interests and results in complete success for you. To set the target point, consider:

- Your highest estimate of what is needed. (What are your interests?)
- Your most optimistic assumption of what is possible.
- Your most favorable assessment of your bargaining skill.

Make target point into opening position.

Set your bottom linear resistance point—solution that is the least you are willing to accept and still reach agreement. To identify your **bottom line**, consider:

- Your lowest estimate of what is needed and still acceptable to you.
- Your least optimistic assumption of what is possible.
- Your least favorable assessment of your bargaining skill relative to other negotiators.
- Your **B**est **A**lternative **T**o A **N**egotiated **A**greement (BATNA).

Consider possible targets and bottom lines of other negotiators.

- Why do they set their targets and bottom lines at these points? What interests or needs do these positions satisfy?
- Are your needs or interests, and those of the other party, mutually exclusive?
- Will gains and losses have to be shared to reach agreement, or can you settle with both receiving significant gains?

Consider a range of positions between your target point and bottom line.

- Each subsequent position after the target point offers more concessions to the other negotiator(s), but is still satisfactory to you.
- Consider having the following positions for each issue in dispute:
 - ▶ Opening position.

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- ▶ Secondary position.
- ▶ Subsequent position.
- ▶ Fall back position—(yellow light that indicates you are close to bottom line; parties who want to mediate should stop here so that the intermediary has something to work with).
- ▶ Bottom line.

Decide if any of your positions meet the interests or needs of the other negotiators. How should your position be modified to do so?

Decide when you will move from one position to another.

Order the issues to be negotiated into a logical (and beneficial) sequence.

Open with an easy issue.

Open with a position close to your target point.

- Educate the other negotiators so they understand why you need your solution and why your expectations are high.
- Educate them about the need to raise or lower their expectations.

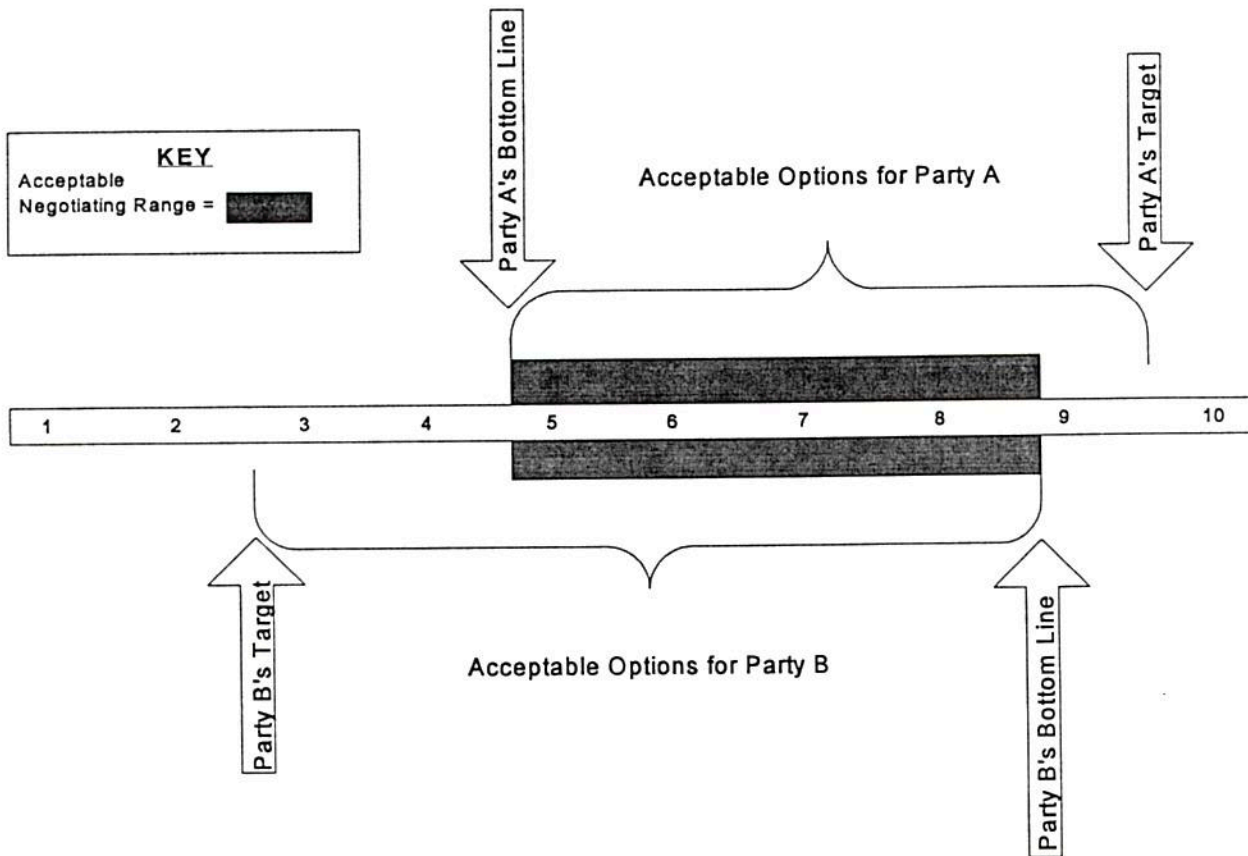
Allow other side to explain their opening position.

If appropriate, move to other positions that offer other negotiators more benefits.

Look for a bargaining range—spectrum of possible settlement alternatives any one of which is preferable to impasse and no settlement.

Compromise on benefits and losses where appropriate.

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Look for ways positions can be modified to meet all negotiators' interests.

Formalize agreements in writing.

Characteristic Behaviors Of Positional Bargainers

- **Initial large demand**—high or large opening position used to educate other party about what is desired, or identify how far they will have to move to reach an acceptable settlement range.
- **Low level of disclosure**—secretive and non-trusting behavior to hide what settlement range and bottom line are. Goal is to increase benefits at expense of other.

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- **Bluffing**—strategy used to make negotiator grant concessions based on misinformation about the desires, strengths, or costs of another.
- **Threats**—strategy used to increase costs to another if agreement is not reached.
- **Incremental concessions**—small benefits awarded to gradually cause convergence between negotiators' positions.
- **Hard on people and problem**—often other negotiator is degraded in process of hard bargaining over substance. This is a common behavior that is not necessarily a quality or desirable behavior in positional bargaining.

Costs and benefits of positional bargaining.

Costs

- ▶ Often damages relationships
- ▶ Inherently polarizing (my way, your way)
- ▶ Cuts off option exploration
- ▶ Often prevents tailor-made solutions
- ▶ Promotes rigid adherence to positions
- ▶ Obscures a focus on interests by premature commitment to specific solutions
- ▶ Produces compromise when better solutions may have been available

Benefits

- ▶ May prevent premature concessions
- ▶ Is useful in dividing or compromising on the distribution of fixed-sum resources
- ▶ Does not require trust to work
- ▶ Does not require full disclosure of privileged information

References

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Gerald Nierenberg, Fundamentals of Negotiating. New York: Hawthorn Books, 1977.

Richard Walton and Robert McKersie, A Behavioral Theory of Labor Negotiations, New York: McGraw Hill, 1965.

INTEREST-BASED BARGAINING

What Is Interest-based Bargaining?

Interest-based bargaining is a negotiation strategy that focuses on satisfying as many interests or needs as possible for all negotiators. It is a problem-solving process used to reach an integrative solution rather than distributing rewards in a win/lose manner. It is not a process of compromise.

When Is Interest-based Bargaining Used?

- When the interests of the negotiators are interdependent.
- When it is not clear whether the issue being negotiated is fixed-sum (even if the outcome is fixed-sum, the process can be used).
- When future relationships are a high priority.
- When negotiators want to establish cooperative problem-solving rather than competitive procedures to resolve their differences.
- When negotiators want to tailor a solution to specific needs or interests.
- When a compromise of principles is unacceptable.

Attitudes Of Interest-based Bargainers

- Resource is seen as not limited.
- All negotiators' interests must be addressed for an agreement to be reached.
- Focus on interests not positions.
- Parties look for objective or fair standards that all can agree to.
- Belief that there are probably multiple satisfactory solutions.
- Negotiators are cooperative problem-solvers rather than opponents.
- People and issues are separate. Respect people, bargain hard on interests.
- Search for win/win solutions.

Negotiation

How To Do Interest-based Bargaining

Interests are needs that a negotiator wants satisfied or met. There are three types of interests:

- **Substantive interests**—content needs (money, time, goods or resources, etc.)
- **Procedural interests**—needs for specific types of behavior or the "way that something is done."
- **Relationship of psychological interests**—needs that refer to how one feels, how one is treated, or conditions for ongoing relationship.

SATISFACTION TRIANGLE



Identify the substantive, procedural and relationship interests/needs that you expect to be satisfied as a result of negotiations. Be clear on:

- Why the needs are important to you.
- How important the needs are to you.

Speculate on the substantive, procedural, and relationship interests that might be important to the other negotiators.

- Assess why the needs are important to them.
- Assess how important the needs are to them.

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Begin negotiations by educating each other about your respective interests.

- Be specific about why interests are important.
- If other negotiators present positions, translate them into terms of interest. Do not allow other negotiators to commit to a particular solution or position.
- Make sure all interests are understood.

Frame the problem in a way that it is solvable by a win/win solution.

- Remove egocentricity by framing problem in a manner that all can accept.
- Include basic interests of all parties.
- Make the framing congruent with the size of the problem to be addressed.

Identify general criteria that must be present in an acceptable settlement.

- Look for general **agreements in principle**.
- Identify **acceptable objective criteria** that will be used to reach more specific agreements.

Generate multiple options for settlement.

- Present multiple proposals.
- Make frequent proposals.
- Vary the content.
- Make package proposals that link solutions to satisfy interests.
- Make sure that more than two options are on the table at any given time.

Utilize Integrative Option Generating Techniques

- **Expand-the-pie**—ways that more resources or options can be brought to bear on the problem.
- **Alternating satisfaction**—each negotiator gets 100 percent of what he/she wants, but at different times.